

Minneapolis Charter Commission Minutes

Regular Meeting

**Wednesday, November 7, 2012 - 4:00 p.m.
Room 317 City Hall, Minneapolis, Minnesota**

Commissioners Present: Clegg (Chair), Cohen, Connell, Dolan, Ferrara, Gerdes, Johnson, Kozak, Lickness, Metge, Peltola, Rice, Rubenstein, Sandberg, Schwarzkopf (quorum 8)

Also Present: Burt Osborne, Assistant City Attorney

1. Roll Call

Chair Clegg called the meeting to order at 4:00 p.m. Roll call was taken.

2. Adopt Agenda

Gerdes moved adoption of the agenda. Seconded.

Adopted upon a voice vote.

Absent - Kozak, Metge.

3. Approve Minutes of October 3, 2012

Gerdes moved approval of the minutes of the meeting of October 3, 2012. Seconded.

Adopted upon a voice vote.

Absent - Kozak, Metge.

4. Chair's Report

Clegg stated that he had nothing additional to report.

Introduction of New Commissioner

5. Introduction of Commissioner Devin Rice

Commissioner Rice introduced himself stating that he was born and raised in Minneapolis and grew up on the Northside. He attended DeLaSalle High School, the University of Minnesota, and the University of St. Thomas. He had worked for Governor Perpich, the Minnesota World Trade Center Corporation, and for the past 20 years had worked in global capital markets. He was married with three children. He looked forward to serving on the Charter Commission.

Election of Officer

5. Election of Secretary

Chair Clegg opened the floor to nominations.

Lickness moved the nomination of Commissioner Schwarzkopf as Secretary. Seconded.

There being no further nominations, nominations were closed.

Lickness's motion to nominate Commissioner Schwarzkopf as Secretary was adopted upon a voice vote.

Discussion

6. Plain Language Charter Revision:

Clegg stated that Former Commissioner Brian Melendez had updated the Plain Language Charter Revision (PLCR) following a meeting with Deputy City Attorney Peter Ginder, Park Board counsel Brian Rice, and Chair Clegg to resolve the final outstanding issues. Mr. Melendez will attend the December meeting and report on the changes from the prior draft and the Charter Commission will act on the latest draft at the December or January meeting.

At the October meeting, Commissioner Schwarzkopf had introduced a proposed amendment to the Plain Language Charter Revision regarding conflict of interest as it related to the Planning Commission. Discussion had been postponed to allow Commissioners time to review the proposed language.

Schwarzkopf moved to amend Article VII, Administration, Section 7.2, Departments, of the Plain Language Charter Revision by adding to Section (e) Planning Commission, a new part (5) to read as follows:

“(5) Conflict of Interest.

(1) **Definition.** An officer as defined in 8.1(a) whom in the discharge of such officer's duties participates in a governmental decision, action or transaction in which the officer has a financial interest, except when the financial interest is no greater than that of another member of his or her business classification, profession or occupation. A financial interest is any interest, including loans, which shall yield directly or indirectly a monetary or other material benefit to the officer (other than monetary or material benefits authorized by the City, Hennepin County, the Park and Recreation Board, and the Minneapolis Public Schools board of education). A financial interest of an officer, the officer's associated business, or the officer's spouse, domestic partner, or dependent, and their employers or associated business shall also be considered a financial interest of the officer. The following assets shall not be considered a financial interest: ownership of shares in a diversified mutual fund, membership in a pension or employee benefit plan, ownership of bonds or publicly traded securities with a market value of less than two thousand five hundred dollars (\$2,500) and ownership of a whole life insurance policy.

(2) **Officer's Actions.** An officer who has a conflict of interest must prepare in writing a statement describing the matter requiring action or decision and the nature of the potential conflict of interest and deliver the statement to the presiding officer of the Commission. If a potential conflict of interest presents itself and there is insufficient time to write a statement and present it to the presiding officer, the officer shall verbally inform the presiding officer of the Commission and file a written statement as provided above within one week after the potential conflict of interest. If the presiding officer of the Commission has a potential conflict of interest, the presiding officers shall notify the Mayor verbally and in writing. Any officers having a conflict of interest shall remove themselves from the room in which the Commission is meeting while the matter, in which there is a potential conflict of interest, is being discussed.

(3) **Removal of an Officer.** An officer, as defined in 8.1(a)(2) and (3) who has more than one potential conflict of interest during a 12 month period shall be automatically removed and a vacancy declared for that position. The proper appointing agent who appointed the officer who has been removed shall appoint a new officer within 60 days. If the Mayor has more than one potential conflict of interest during a 12 month period, the clerk of the Commission shall notify in writing the City Council of the Mayor's conflict of interest.

(4) **Vote Taken on a Matter with a Conflict of Interest.** When an officer verbally or in writing has stated that the officer has a potential conflict of interest, the vote on the matter before the Commission will be taken by secret ballot and recorded by the clerk of the Commission.”

Schwarzkopf withdrew Paragraph (4) from consideration.

Schwarzkopf stated that the proposed amendment would address the issue of conflict of interest on the part of Planning Commissioners. The City’s current conflict of interest ordinances do not sufficiently address the issue although portions of the ordinances were incorporated into the proposed amendment.

Cohen stated that as a member of the Planning Commission, he had attended meetings where the chair of the Planning Commission was an applicant for a development proposal. At the August meeting, one Commissioner recused herself because she had five items on a 13-item agenda in which she had a conflict of interest. Planning Commissioners traditionally came on the Planning Commission without development connections and then, in several instances, had been hired by developers to work on developments which later came before the Planning Commission. Commissioner/City Council Member Schiff will also be introducing a provision to the City Council to address the issue. The Planning Commission was awaiting an opinion by the City Ethics Officer, Susan Trammell, who is doing a survey of other communities to determine how they deal with the situation. He stated that conflict of interest should be eliminated and not tolerated.

Ferrara stated that while it was good that the Commission was considering the amendment, conflict of interest was already addressed in federal and state law as well as city ordinance. Research should be done as to whether other cities address conflict of interest in their charters. It may be best to let it remain in ordinance.

Clegg stated that he was opposed to the amendment. The proposed language would create an inconsistency between charter and ordinance. It would also be a substantive change to the PLCR and should be discussed as a separate amendment to the charter.

Peltola suggested waiting to see if Council Member Schiff’s provision provided a solution. If not, then perhaps the Commission could look at a separate charter amendment.

Connell agreed that if the Commission decided to consider the proposal, it should be considered separate from the PLCR. There should also be no conflict between the proposal and existing ordinance. Subject matter experts are needed on the Planning Commission and conflicts will arise, but disqualifying members who happened to have two conflicts of interest seemed harsh and potentially against the public interest. The issue seemed to be Commissioners who were utilizing their position to receive and take advantage of opportunities that came along while in that position. He was not sure that the proposed language actually addressed that problem without potentially creating larger problems.

Metge suggested that the issue could be addressed in the appointment and nomination process for Planning Commissioners. Cohen noted that most Commissioners did not have a conflict at the time of appointment. They were hired by developers after they were appointed to the Planning Commission.

Rice pointed out what he thought might be unintended language in Paragraph (1) which read “except when the financial interest is no greater than that of another member”. He believed it should read “except when the financial interest is no greater than that of any other member”.

Johnson thanked Commissioner Schwarzkopf for drafting the proposal but felt that it lacked merit and would not support it.

Schwarzkopf moved to withdraw his proposed amendments regarding conflict of interest.

Gerdes moved to vote on the proposal.

Schwarzkopf requested to withdraw his motion and postpone consideration to allow time for Council Member Schiff to adopt an ordinance addressing the issue or for the Planning Commission to act on the issue.

Clegg ruled that the Commission had discussed the proposal and would vote on it.

Schwarzkopf's motion to amend the Plain Language Charter Revision to add language regarding conflict of interest as it related to the Planning Commission failed upon a voice vote.

Cohen requested a roll call vote.

The Schwarzkopf motion lost. Yeas, 2; Nays, 11 as follows:

Yeas - Cohen, Ferrara.

Nays - Connell, Dolan, Gerdes, Johnson, Kozak, Lickness, Peltola, Rice, Rubenstein, Sandberg, Clegg.

Declining to vote - Metge, Schwarzkopf.

Public Commentary

Peltola suggested that the Charter Commission discuss ways to improve the voting process in Minneapolis, noting that many voters had waited outside in the rain for over an hour on Election Day.

Sandberg suggested that the Commission could discuss election issues with the City Clerk at a future meeting.

Schwarzkopf noted that at one time there were 226 precincts and now there were only 117 which saved money, but added distance between polling places and more people per precinct.

Clegg stated that the Charter Commission had no role in the election process other than defining ward boundaries. The City Council determined the number of precincts.

There was no one present wishing to address the Charter Commission.

Cohen moved to adjourn. Seconded.

Adopted upon a voice vote.

The meeting was adjourned at 4:57 p.m.

Submitted by: Peggy Menshek, Charter Commissioner Coordinator